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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Anthony Allen Thomas,

10 Petitioner,

11 v.

12 David Shinn, et al.,

13 Respondents.
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No. CV-22-01327-PHX-ROS (JFM)

ORDER

15 Petitioner Anthony Allen Thomas filed an Amended Petition for a Writ of Habeas
16 Corpus¹ under 28 U.S.C. § 2254 stating the Arizona Department of Corrections advised
17 him he would be placed on probation after completing his current sentence. Because
18 Petitioner is currently in prison due to having his probation revoked, Petitioner claims the
19 future term of probation would, somehow, violate his “double jeopardy” rights. (Doc. 4).
20 Petitioner asserts he was told during a meeting in June 2019 that he would be placed on
21 probation upon his release. (Doc. 17 at 3). According to a declaration filed by a prison
22 employee, the Arizona Department of Corrections had not updated its internal database at
23 the time of that conversation, so it contained inaccurate information. Upon updating the
24 database with the correct sentencing order from Petitioner’s 2019 probation revocation, the
25 future probation term was “canceled.” (Doc. 18 at 6).

26 On May 12, 2023, Magistrate Judge James F. Metcalf issued a Report and
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28 ¹ Petitioner’s original petition was dismissed with leave to amend for failure to use the correct form. (Doc. 3). On screening the amended petition, the Court dismissed Petitioner’s first count for failure to state a claim. (Doc. 6).

1 Recommendation (“R&R”) recommending Petitioner’s amended petition be denied and
2 dismissed with prejudice because it was untimely. The petition was filed nearly three years
3 after Petitioner first learned about the probation term that supposedly would violate his
4 “double jeopardy” rights. Pursuant to 28 U.S.C. § 2244(d)(1), there is a one-year statute of
5 limitations for petitions brought by a person in custody pursuant to the judgment of a State
6 Court.

7 Petitioner’s objections were due within fourteen days of the R&R being served.
8 (Doc. 20 at 10-11). Petitioner did not file any objections.

9 The R&R will be adopted in full.

10 Accordingly,

11 **IT IS ORDERED** the Report and Recommendation (Doc. 20) is **ADOPTED IN**
12 **FULL.**


13 **IT IS FURTHER ORDERED** the Amended Petition for Writ of Habeas Corpus
14 (Doc. 4) is **DENIED** and **DISMISSED WITH PREJUDICE.**

15 **IT IS FURTHER ORDERED** a Certificate of Appealability is **DENIED** because
16 dismissal of the amended petition is justified by a plain procedural bar and reasonable
17 jurists would not find the procedural ruling debatable.

18 **IT IS FURTHER ORDERED** the Clerk of Court shall close this matter.

19 Dated this 13th day of June, 2023.

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Honorable Roslyn O. Silver
Senior United States District Judge